THE PUBLIC CANALS AND PUBLIC FERRIES REGULATION AMENDMENT BILL.

Mr. Subba Aiyar presented the report of the Select Committee on the Public Canals and Public Ferries Regulation Amendment Bill and moved that the report and the Bill be taken up for consideration at once.

Seconded by Mr. Kunjan Pillai.

Carried.

CLAUSE 6.

Mr. G. Parameswaran Pillai, in moving that the words "ply for hire along" be substituted for "use" in line 1, spoke as follows:—

"Sir,

Under the existing Regulation only those vessels that *ply for hire* along a public canal need be licensed and registered; whereas, under the Bill before us, *every vessel* that *uses* a public canal ought to be licensed and registered. The reasons that have induced the learned Mover of the Bill to introduce this change are not at all convincing. The Statement of Objects and Reasons begins in the now stereotyped form that it has been found necessary to bring the Regulation into conformity with the Madras Act. It would appear from this that our Regulation was based upon the Madras Act then in force, and that, together with the change brought about there, our Regulation has only to be brought up to date. But the fact is otherwise. The Madras Act was really considered by this Council when it passed the existing Regulation. The Council, presided over by one of its ablest Presidents, Sir P. Rajagopalachari, deliberately refused to follow certain provisions in the Madras Act with a view to suit local conditions; and the change now proposed to be effected by Mr. Subba Aiyar was rejected after full consideration twelve years ago. My friend now wishes the Council to go back and accept the very provision that was once rejected. In this matter he cannot be supported unless he is able to show good grounds for a change. The argument based on the Madras Act cannot therefore be of any avail.

Let us consider the effect of such a change in the law. Is there any necessity to interfere with private-owned boats or with the liberty with which their owners now use them? It is a well-known fact that, except in municipal areas where vehicle tax has been introduced, only such conveyances as are used for hire are licensed and registered under the Hackney Carriage Regulation. If the State will allow free and unfettered use of vehicles except in limited areas, I do not see any justification for imposing vexatious restrictions on the people making use of their own vessels in public canals for their own purposes and not for gain or profit. We have to remember in this connection that in certain parts of Travancore the people cannot get out of their homesteads without a boat. The explanation offered is that Government have power to exempt any class of vessels from the operation of this Regulation and that it is believed that Government will so exempt vessels of small dimensions. My objection is based on principle. There is equal risk in the case of small as well as big vessels. Vessels big or small when plying for hire should be licensed. For, I suppose one of the objects of this Regulation is to provide for greater control over navigation and traffic along watercourses so as to secure the safety of goods and passengers. Vessels, big or small, owned by private individuals and used only for their own purposes should not be affected at all.

Government need not be very anxious about such vessels. For, sufficient care is always taken by private individuals in the plying of their boats. At any rate, we do not expect them to be used in any manner detrimental to the interests of the owners themselves. Suppose for a moment that vessels beyond a certain measurement alone need be licensed and registered. There will be risk of several people making vessels just below that measurement and using them for hire. In this connection the observations of the then President of the Council in regard to this matter are highly instructive. He said: "When the Bill is passed, it will have to be made applicable only to the large waterways where there will not be much difficulty in distinguishing boats that ply for hire from private boats. The traffic of the latter can be regulated by a strict enforcement of the rules passed under Section 14. *In matters of this kind we have also to consider the possible hardships the Bill as it stands will work on the general public.*" These observations saved us from a blind copying of the provisions in the Madras Act into our Regulation. I hope this Council will agree with me when I plead that the observations then made are applicable to present times as well and no change in the existing Regulation is called for at all in this respect."

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Mr. Raman Tampi:—

"I beg to second the motion."

Mr. John Nidiry:—

"I support the amendment and also submit for the consideration of the Council another fact, which I think may go along with what has already been pointed out by my friend Mr. Parameswaran Pillai. It will be seen from the Select Committee's report (paragraph 3), that it is the intention of Government to exempt all vessels of one ton and less from the operation of Clause 6 and that the existing rules exempt only vessels of half a ton It is also said in the report (paragraph 4), that fishing boats will also be exempted from the operation of Clause 6 of the Bill. I think it would be better to show the proposed good intention of the Government just now by inserting a provision in the Clause itself, rather than postpone it to the rules which are to be framed in future under the provisions of the Bill."

Mr. Subba Aiyar:—

"I oppose the amendment. I think I made my position clear at the time when the Bill was introduced in the Council. But now, since an amendment has been moved, I shall state a little more clearly the reasons which induced the Government to modify the wording in the existing Regulation. At the time when the Bill was introduced in the Council before the present Regulation became law, it was provided that all vessels that are *used* in a canal should be either licensed or registered. But when it was considered by the Council at a later stage, an amendment was moved to restrict the scope of the Bill to vessels plying for hire, and it was accepted, with the result that under the existing law vessels 'plying for hire' are alone required to be registered. Since the passing of the Regulation, it has been found that difficulty has been experienced in the working of the Section.

I may in this connection draw the attention of the Council to the history of legislation on this particular subject in Madras. In 1870, the Act was passed there, and it required that all vessels using a canal should be licensed. Subsequently, in 1878, the provision was restricted to vessels 'plying for hire'. This was working till 1895, when it was found that, practically, it became a source of inconvenience to the public and also unworkable in practice. Hence, they deliberately restored the original wording, and laid down that all vessels that use a canal should be licensed or registered. A new provision was however added empowering Government to exempt any particular class of vessels from the operation of the Act. Vessels intended for the personal use of the owner and conveying his luggage are intended to be registered, while those used for other purposes have to be licensed. As was observed when I introduced the Bill, the idea is to exempt all vessels below one ton from requiring a license or registration. It is not with a view to raise additional revenue that the provision has been introduced, though it is not a matter to be ignored. Many boats though not plying for hire are very big, and in many instances much bigger than those plying for hire. While small *vallams* plying for hire and intended for earning the daily bread of the owner or master have to be registered, large vessels intended for commercial purposes are allowed to be free. Further, while small vessels navigating a canal are not likely to cause any inconvenience or damage to other vessels, bigger vessels of many tons are likely to cause serious damage, if they come in contact with other vessels. Such boats go free, that is to say, they navigate without any license or registration. They do not allow an opportunity to Government to control their navigation. The waterways are owned by Government for the use of the public, and the vessels using the public canal ought to so conduct themselves that no injury is caused to other boats. The bigger the size of the vessel, the greater the chance of causing serious damage. It is therefore absolutely necessary that the Government should have power to control their navigation; not only that, they should be in a position to identify such vessels also. Again, we know as a matter of fact that many big firms own very large vessels, and for their use, the canals have to be frequently put in order at a considerable cost. Though such vessels reap the benefit of such investment, they do not pay for the same. I do not see why large boats used for commercial purposes and carrying large quantities of cargo should be regarded as vessels used for private purposes. The test in such cases is whether vessels are above a certain tonnage, and, if so, they should be compelled to get themselves registered or licensed as the case may be, so that in the case of any accident when the matter is brought to the notice of the authorities, they may be able to identify the vessel and to know to whom the vessels belong. Further, if vessels plying for hire are alone to be registered, the difficulty is to know which vessels do ply for hire and which not We know from experience that sometimes the servants of the owners while in charge of vessels take some passengers for hire. There will then be practical difficulty for the

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Canal officer in such cases to determine in each case whether the vessel is plying for hire or not. In many cases, it is the low-paid officer that will have to see whether the vessel is used for hire or for private purposes. The discretion has to vest in him. If such discretion is vested in such officers, it is likely to be abused and may lead to oppression and the passengers will be put to inconvenience. The next point—and that is an important point—is, supposing we accept the amendment, will the owners whom my friend wants to protect be in any way better? At the outset, I distinctly pointed out that so far as this matter is concerned, British Malabar, Cochin and Travancore have come to an understanding, whereby the rules in one place should be assimilated in other places, so that the same set of rules may be in force in all the three places and that the vessels in Cochin and Malabar may go to Travancore and those in Travancore may go to Cochin or Malabar. That being the case, we are bound to adopt the rules in British India or Cochin. On that ground, the amendment has to be vetoed. Supposing, however, we are not bound by the rules in force elsewhere, let us see what will be the result of accepting the amendment. The moment our vessels go to Cochin—and if the Cochin Harbour becomes an accomplished fact, almost all the boats *will* have to go to Cochin—they will be seized there and not allowed to navigate on the ground of want of registration or license, and they will have to pay registration or license fee in Cochin, and in the process of getting the vessels registered or licensed the boat owners will be put to a considerable amount of trouble and inconvenience, over and above any criminal prosecution that may be launched in Cochin. The Cochin rules have been recently published in the Gazette dated 22nd September 1920. One of the rules says that all the vessels *using* the public canals ought to be licensed or registered unless they are exempted. Unless the boats in Travancore are registered or licensed here with the exception of those which may be exempted, the owners will be prosecuted in Cochin, if they happen to go there. Is this a disirable state of affairs? If we accept the amendment, instead of attempting to save the owners, we may put them to unnecessary difficulty and inconvenience. As I have said, the larger the vessel, the greater the chance of injury to other vessels. Hence we must be able to regulate their navigation. If any accident occurs, we must be able to identify the vessels and bring them under complete control. There is the understanding between the three Governments that vessels below one ton should be exempted. In the case of other vessels, those applied for personal use and convenience need only be registered. The registration fee will be only nominal. The real difficulty which was suggested to us at the Select Committee was that considerable delay and inconvenience would be caused to the owners of the boats requiring registration in taking the vessels to the Canal officers and getting them registered. The Select Committee, after considering that question, have recommended to Government in their report that it must be the policy of the Government to see that Registration centres are opened in as many places as possible with a view to remove inconvenience to the owners, and, if possible, to renew registration only once in three years, levying the fee for three years in a lump. This is with reference to vessels not used for trade purposes. There is another aspect. This Regulation applies to all vessels, *i. e.*, to steam vessels also. The object of the Government is to bring steam vessels under the Regulation. If we include them, I do not know whether, simply because they are used for private purposes, we can exempt them. All motor cars are licensed, as also the drivers. Why not steam vessels used for private purposes? Thus the objects of the Bill are first to bring our law into conformity with the Madras Act, so that the same rules may be in force in Travancore, Cochin and British Malabar; secondly, to avoid the difficulty of deciding whether any particular vessel is on any day plying for hire or not; and, thirdly, to see that vessels not used for personal purposes may be brought under the control of Government and may be identified. With reference to the suggestion of my friend, Mr. Nidiry, that a provision be embodied for the exemption proposed to be given in respect of certain vessels I may say that this is a matter which ought to be decided by arrangement among the three Governments. They have agreed to exempt vessels below one ton. This may be liable to alteration. It may be that the exemption is extended. This may be left to be regulated by rules inasmuch as they may have to be modified from time to time. It is better to leave it to the discretion of the Government, especially when the Government have given an undertaking at the time when the Bill was introduced that vessels of less than one ton would be exempted. The Government may therefore be safely trusted to see, if possible, whether the exemption could not be further extended. For the above reasons, I regret I cannot accept the amendment."

Mr. G. Parameswaran Pillai:—

"So far as the necessity to bring the Regulation into conformity with the Madras Act is concerned, my submission is that our Regulation was passed after that Act was passed, and this Council did not think it necessary to adopt the wording of the Section

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in that Act, and to bring our Regulation into conformity with it. Then, so far as the regulation of traffic is concerned, there is Section 14 (Clauses iii and iv) in the existing Regulation. This Section gives ample powers to Government to frame rules for the purpose. I suppose that the regulation of traffic in canals can be done even without license or registration, as even now under the Police Regulation vehicles which are not plied for hire are regulated in a proper manner. With regard to boats which have to go to Cochin, I suppose that the number of such boats will be disproportionately small when compared to the actual number of vessels which are being used by the people of Travancore for their own purposes. So far as the comparison between motor cars and ordinary *vallams* which are included in the Bill, is concerned, I think that no comment is necessary."

The amendment was put to the vote and it was lost.

CLAUSE 10.

Mr. G. Parameswaran Pillai, in moving that Clause 10 be deleted, said:—

"Sir, I would propose the deletion of Clause 10 of the Bill, which aims at the establishment of stations along a public canal with a view to levy tolls on vessels passing along it or on passengers, vehicles, etc., landed therefrom. I fail to see why the hitherto unfettered privilege of using the water-routes of our country—which are mostly natural—should be taxed. If it is a question of finance, I do not think that the revenue derived therefrom will be considerable. Even if it were so, I would dissent from the adoption of such a step at present. Enormous sums of money have been spent on the construction of public roads and are being spent for their maintenance. Except in certain municipal areas no tax is levied from vehicles or other hackney carriages making use of these roads. The proposal to levy such a toll on vessels, etc., will work great hardship on the poorer section of the people. A similar provision originally found a place in the Bill which has subsequently become the existing Regulation. But as a result of the opposition from non-official Members the provision was dropped by this Council when the Bill was being considered. Nothing has happened since then to induce this Council to accept this provision which is both unjust and inequitable. I would therefore request this Council to drop this Clause altogether."

Mr. Raman Tampi:—

"I beg to second the motion. The reasons put forward by my friend Mr. Subba Aiyar with regard to the earlier portion of the Bill will not apply here. In the case of licensing or registration of boats, the circumstance that they have to go outside Travancore will have to be taken into consideration. But the levy of tolls is a matter with which Cochin or British Malabar will not have absolutely anything to do, and, as Mr. Parameswaran Pillai pointed out, if the chief inducement for the amendment of the law is to bring it into conformity with the British Act, then that contention will not apply so far as this portion of the Bill is concerned. To me, it appears to be rather iniquitous that a provision which was once fully considered and thought untenable should be again brought forward for consideration. This provision was vehemently discussed in the Council and after hearing all the arguments Government thought that there should be no legislative provision for the imposition of tolls. We are not very far from the date on which that discussion took place. I remember that on several occasions at the sessions of the Assembly, this matter came up for discussion and memorials were submitted to His Highness, who was kind enough to command that the tolls should be immediately stopped. After all this has taken place, I fail to see why this insistence for the imposition of tolls is being adopted. I was told by Mr. Subba Aiyar that this is after all an enabling legislation and that it is open to Government to notify particular places where the operation of the Regulation is to come into force, or not. That is quite a different thing. The Government are arming themselves with the powers of levying tolls under this provision, and at any time without having recourse to Legislature, they may impose the toll fees. Then where is the opportunity for the people to come forward and protest against it? As it now stands, the only opportunity is in this Council. Under the circumstances, that a matter which was once discussed and negatived should be brought again, is, I think, not showing proper consideration to the demands of the people."

Mr. Subrahmanya Pillai:—

"Sir, I am one of those who generally oppose the levy of tolls either on public roads or on public canals. It is not an equitable mode of taxation. It presses most heavily upon the neighbouring public, while those who make use of longer distances of the roads or canals at a distance from the toll-gates are free from this levy. Toll-gates are always unpopular institutions. One of your predecessors has openly admitted in this Council tha

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there are sufficient reasons for their becoming unpopular. I mean no offence, Sir, when I say that these institutions are regarded as a sort of public nuisance. We were all along under the impression that the Government were on their way to stop one by one the already existing toll-gates. At present, we are not only disappointed, but we are also surprised to see Government proposing to establish toll-gates in public canals as well, where such institutions never existed and to exact tolls from passengers as well. I am strongly opposed to the establishment of such impediments to cheap locomotion necessary for the material prosperity of the State. I strongly support Mr. Parameswarán Pillai's motion to delete the Clause."

Mr. John Nidiry:—

"I also support my friend Mr. Parameswaran Pillai's motion. As has been observed by the previous speakers, the imposition of the toll has been very unpopular from the beginning, and the tendency in later days on the part of the Government was to minimise it. That being the case, it is really a surprise that attempts are again made now and then to levy tolls not only on public roads which are constructed at heavy expense, but also in natural waterways. I think it will be a real hardship to the subjects of His Highness the Maha Raja to levy such tolls".

Mr. Subba Aiyar:—

"I oppose the amendment. The principle of levying a toll has been recognised in the existing Regulation. Sections 10 and 11 refer to the same. They relate to tolls or fees other than license and registration fees. Section 11 relates to the seizure of any vessel in respect of which toll is payable. Section 14 empowers Government to frame rules with regard to the disposal of vessels seized. From this it is clear that Sections 10, 11 and 14 contemplate the levy of tolls. The present Clause 10 is only intended to make the meaning clear. The place where the fee will be levied may be notified under Clause 10. If Sections 11 to 14 are to be there without any amendment, Clause 10 is necessary".

Mr. G. Parameswaran Pillai:—

"There are amendments to be moved in regared to those Sections".

Mr. Subba Aiyar:—

"The amendments are brought in now. What I say is that the words 'tolls or fees' are there already. It is no new thing that is sought to be put in the Bill. If they are there, I do not know whether, without Clause 10 they can stand. I do not know what objection there can be to this provision which only enables the Government to establish toll-stations. One of my friends said that the levy of tolls was cancelled by a Notification owing to a representation at the Assembly. That Notification refers to ferry charges. I have got it here. It runs as follows:—

"It is hereby notified for the information of the public that His Highness the Maha Raja has been pleased to sanction, with effect from the 1st Chingam 1089, the abolition of all charges imposed on the public ferries' in the State by Notifications dated the 13th January 1912 and 13th July 1912."

It was represented that the levy of ferry charges from passengers and school-boys caused great hardship. The income from such fees was itself not much. So the Government cancelled the same. This fact itself is a sufficient guarantee that, before levying any toll or fee, the Government will do their best to ascertain whether it will work hardship upon the public, and if it does, the levy will be done away with.

To say that no costly improvement is effected in the waterways is, to my mind, not true. Because, we know that a good deal of, if not more than, the amount realised in the shape of license fee has been spent in the maintenance of the canals. My friends must have known about Tottappalli locks and other works carried out by Government. These works must have necessarily cost a good deal. To say that no improvement is effected is not therefore, I think, well founded. There need be no fear that the Government will levy tolls the moment the law is passed. The toll has not been levied till now. This is only an enabling provision which the Government may utilise for exceptional cases and that for good reasons."

President:—"I think that our friends are making a mistake in confounding this enabling Section with an enunciation of Government policy. It is not the object of Government at present or except under extreme circumstances to levy a toll. Of that I may give them an assurance. I think that it is necessary that we must have an enabling Section, because a situation can be conceived when the imposition of a toll may be necessary or even desirable. Supposing a large body of public opinion somewhere in the country desires that a new canal should be constructed or a new waterway should be opened at a very heavy cost, would it not be right for the Government to realise toll from the people benefited by the

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work? It is natural even for the public of the portion of the country concerned to say: "If you construct the canal, we are prepared to pay the toll, for a certain number of years." Then we may have to establish toll-gates and levy a fee, a thing which is not unknown even in connection with roads in British India. In order to be in a position to do a thing like that under extreme circumstances, we should have an enabling provision. That is the only object of this Clause. That the tolls are unpopular Government know. I therefore want my friends on this side to understand that Government are not trying to enunciate a new policy and that the provision in question is purely an enabling one."

Mr. G. Parameswaran Pillai:—

"I beg to express my thanks for the enunciation of the policy underlying Clause 10. But, I would like to add a few words by way of reply to my friend Mr. Subba Aiyar's observations. In the firt place, my friend has said that this is not a new provision. As a matter of fact, it is a new provision that is introduced, although, in the light of the enunciation of policy just now made, it may not be regarded as highly unfair. Sections 12 to 14 deal with tolls that are leviable upon ferries, whereas this Clause is of much wider application. It says that Government may establish stations at which tolls shall be levied on vessels passing along a public canal, or on passengers, vehicles, animals or goods landed therefrom and fix the rates of such tolls. This is different from tolls leviable upon passengers, animals or goods conveyed across public ferries referred to in Sections 12 to 14. There is then no misunderstanding on *this* side regarding the Clause. I do admit that it may become necessary in certain cases where an artificial waterway is created at an enormous cost to reimburse at least a portion of the expenses by levy of tolls spread over a large number of years, and that may be equitable. But my submission is that Clause 10 by itself will not give us that idea, unless it be that your enunciation of policy alone has given us that idea."

President:—"It may apply to the existing waterways also. I do not think that Government do not spend money on natural waterways".

Mr. G. Parameswaran Pillai:—

"The Budget figures will convince anybody that as a matter of fact what is being spent upon the natural waterways bears no comparison whatsoever to the enormous expenditure incurred by the Government in respect of the construction of public roads, so that it will not be fair to retain the Clause in its present form without any express provision to the effect that it will be applicable only to artificial waterways, *i. e.*, waterways which are not natural. From the enunciation of policy just made, I suppose that it is not the intention of Government to extend the application of the Clause even to the existing natural waterways. If that be the intention of Government I would request that an amendment to exempt natural waterways from the application of Clause 10 be adopted".

President:—"Except under exceptional circumstances, Government will not apply the Clause. But I may also say that, even as regards natural waterways, heavy expenditure may sometimes be necessary, as for instance in the case of the Kayankulam lake which is a very shallow one".

The amendment was put to the vote and it was lost.

Mr. G. Parameswaran Pillai next moved that the word "passengers" in line 2 be deleted.

President:—"I would accept this amendment on behalf of Government."

The amendment was accepted by the Council and it was carried.

CLAUSE 12.

Mr. G. Parameswaran Pillai moved that the following be deleted from the Clause:—"and also the tolls leviable upon passengers, animals, vehicles and goods conveyed across such ferries, provided that no tolls shall be levied on students going to or returning from school. A Notification of such tolls shall be exhibited to public view in English and Vernacular on each side of the ferry", and in doing so he said:—

"When the existing Regulation was under discussion in this Council there was a strong plea put forward by the non-official Members to delete the provision relating to the levy of tolls on passengers, etc., conveyed across public ferries. They represented the serious hardship and inconvenience the poor and helpless wayfarers would be put to, especially in the two northern Divisions. Unfortunately the provision was got through this Council. But at successive sessions of the Sri Mulam Popular Assembly, representations were made in the matter. His Highness the Maha Raja's Government have recognised the grievances represented by the people to be well-founded, and within a year of the Notification authorising the levy of tolls, the Government stopped all charges in respect of

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public ferries. Now that the Regulation is sought to be amended, I should think it advisable to expunge this objectionable provision—which is now a dead letter—from the Statute Book. It cannot be the idea of Government to derive any considerable source of revenue from public ferries. This provision is apt to be a weapon of oppression in the hands of petty subordinates against the poor subjects. I am sincerely sorry that most of my non-official friends, particularly Messrs. Krishna Aiyangar and P. John, are absent to-day. Perhaps some of them would have been able to give this Council a fuller idea of the troubles the poor classes would be put to on account of this provision. I can only imagine what they would be. A labourer going out for work to a place a couple of miles away may have in some taluks to cross two or three ferries. He has to pay a toll each time he crosses the ferry out of the day's wages which might barely suffice to keep body and soul together. Such a levy would therefore be unrighteous and our finances are capable of being developed by resorting to more profitable and less oppressive sources of taxation."

Mr. Raman Tampi:—

"I beg to support the amendment. There are several ferries between Quilon and Alleppey, with which I am familiar. Just to the northern side of Tevalli Palace, there is a ferry which enables people to go from the southern part of the town of Quilon to Perinad and other outlying places of the taluk. Of course, it is a matter for gratification to find that the students going to school and returning to their homes are exempted from payment of any fees. But there are other people who are equally entitled to a like exemption. It is a well-known fact that several people from outlying parts come to Quilon market for purchasing what is required for their daily necessaries, and if these people are required to pay tolls in respect of ferries as also for the goods that they take from the market, I should think that it is really a difficult situation. Along the seaboard extending from Chavara to Trikkunnapuzha, there are several places where ferries are established. Of course, in all probability, Government may be inclined to open more ferries. Between Ponmana and Trikkunnapuzha, there is a large expanse of water, and the cattle owned by the people living on the seaboard have to be taken to the other side even for grazing purposes. There are ever so many poor people living there who take to the other side for sale the small quantities of commodities that they are able to secure and it is likely that these people will have to pay tolls in respect of ferries. After all, it is not much that these people make by way of sale of those commodities, and if this provision is to be used, it is likely to cause considerable inconvenience to these people. What I have said applies pretty well to Kuttanad and other places linked to the other side of Trikkunnapuzha where also the rule is likely to work hardship on the people. In these circumstances, I submit that the amendment may be accepted."

Mr. John Nidiry:—

"I also support the amendment. It is a well-known fact that ferries are mostly used in low lands like Kuttanad. It is also well-known that very few roads are constructed in those places, though they equally contribute to the revenues of the Government. It is well-known that very little is done there by the P. W. D. by way of roads and other facilities for means of communication; and that a large amount is spent in up-countries by way of opening roads and constructing bridges. I should think that it will be inequitable that, while the people who enjoy the benefit of roads and bridges need not pay anything, the people living in these low lands who are not given any facility as regards roads, etc., should be told that they should pay for the little expense which the Government have to incur by way of ferries. I would therefore suggest that as far as possible, Government should avoid the levy of such fees."

Mr. Subba Aiyar:—

"With reference to this amendment I may say that, with regard to ferry fees, though they were levied at first, they have been abolished now. There is therefore sufficient guarantee that they will not be unnecessarily levied. If in exceptional circumstances it is found necessary to levy them, then the provision has to be there. It is with this view that the provision is retained. If these matters had been brought before the Select Committee, we could have discussed the whole thing and I would have satisfied my friends very easily. One of my friends did not attend the Committee and Mr. Nidiry did not object to the provision at all then. Clause 10 having been adopted, there could be no harm in leaving the Section as it is."

The amendment was put to the vote and lost.

Mr. G. Parameswaran Pillai next moved that the word "passengers" in line 5 and the words "provided that no tolls shall be levied on students going to or returning from school." in lines 6 and 7 be deleted.

Seconded by Mr. Raman Tampi.

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Mr. Subba Aiyar opposed the motion and the same was put to the vote and lost.

CLAUSE 15.

Mr. Subba Aiyar moved that the word "9" be substituted for "7" in line 4 of sub-claus (*e*).

The Council accepted the amendment and the motion was carried.

CLAUSE 16.

Mr. Subba Aiyar:—

"Clause 16 reads thus :—

"Subject to such orders as may have been made by a Municipal or other local authority empowered in this respect, it shall be lawful to the prescribed authority to grant permission to any person or persons for the temporary occupation of any portion of a canal or canal bank for making any temporary erection thereon or for landing goods or passengers, subject to such conditions as he may prescribe for the safety or convenience of persons passing by or dwelling or working in the neighbourhood or of the interests of Our Government, and may at his discretion withdraw such permission."

"The Clause as it stands is misleading, and the provision is liable to be construed as introducing a dual control. So long as the control is in the hands of the Canal officer or prescribed authority he should have the power to give permission for the occupation of the canal or canal bank. The consent of the Municipal authority may however be obtained in cases where it is necessary. This will have to be provided for by the rules. If, however, the canal or canal bank actually vested in the Municipality, it would be desirable that the Municipality should exercise the control. In order therefore to make the meaning clear I propose that the words, "subject to the rules made by Our Government" be substituted for "subject to such orders as may have been made by a Municipal or other local authority empowered in this respect" and that the following be added as a separate paragraph at the end :—

"Notwithstanding anything contained in the first paragraph, it shall be lawful for any Municipal or other local authority to exercise the powers mentioned in the first paragraph if the canal or canal bank vests in such authority."

Seconded by Mr. Raman Tampi.

Mr. G. Parameswaran Pillai :—

"There is also one other aspect, *i. e.*, with reference to the revenue accruing from the levy of fees. I have proposed an amendment to the effect that the revenue must be credited to the Municipalities in cases where the management is entrusted to such bodies."

President:—"I suppose it is so. In fact the Municipal Regulation provides that, even where a vesting is not made, the Government may assign a portion of the revenue. If the canal or canal bank vests in the Municipality, all the revenue accruing from it must go to the Municipality."

Mr. G. Parameswaran Pillai :—

"In that case, I support the amendment moved by my friend Mr. Subba Aiyar and withdraw my amendment."

Mr. Subba Aiyar's amendment was adopted by the Council.

CLAUSE 27.

Mr. Subba Aiyar, in moving that for the words "calculated on the tonnage of the steam vessel" in lines 3 and 4, the words "calculated in the prescribed manner" and be substituted, said :—

"The Clause relates to the levy of a fee for inspection of steam vessels, and says that it should be calculated on the tonnage of the vessels. I understand that it may be calculated in other ways also, for instance upon the power of the engine itself. It is therefore proposed to leave the rates to be fixed by the rules that may be framed for the purpose. In order that it may not be compulsory to levy the fee according to the tonnage alone, the amendment is put in."

Seconded by Mr. Kunjan Pillai.

Carried.

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CLAUSE 44.

Mr. G. Parameswaran Pillai in moving that the word "fails" in line 1 be deleted, said :—

"The existing Regulation contains a Section saying that any person who refuses or evades payment of any toll or fee payable under the Regulation shall be punishable. This Clause which replaces it says that any person who *fails*, refuses or evades such payment shall be punishable. A general Clause like the one proposed in the Bill, will, I think, lead to much mischief. The failure may be due to several reasons, which may not after all justify punishment. The word "fails" appears to me to be very vague and may be taken off. The object of the provision is even otherwise attained by the retention of the words "refuses or evades". I do not therefore see why the word "fails" should be there; and I do not think that its absence will result in any serious dislocation of finance."

Mr. John Nidiry:—"I second the motion."

Mr. Subba Aiyar:—

"I oppose the amendment. A man may drive a motor boat and pass the tollgate without paying the tax. It may not even be possible for the watcher to note down the number of the vessel. There is no question of refusal in such cases. It is the man's duty to pay".

President:—"Or he may not afford to pay anything. That is failing to pay."

Mr. Subba Aiyar:—"In the case of ordinary *vallams*, the watcher will not allow them to pass without the payment being made. But in the case of steam vessels, there may not be refusal or even evasion, but at the same time there will be failure to pay."

Mr. G. Parameswaran Pillai:—

"With regard to steam vessels, I do not think the objection would arise. They are owned by big companies. This provision will work hardship on the poor people. After all, my friend has not shown sufficient reasons why the existing provision should be amended. The existing Regulation provides for punishing a man for refusal or evasion of payment and nothing is said there about failure to pay the toll or fee. The term "failure" is now newly put in. Failure may be on account of very many reasons which any reasonable man may condone. There is no provision in this Bill allowing anybody to condone it, because the Clause says it shall be punishable. There is no discretion left to any Court of law."

President.—"We cannot go into these reasons. The fact remains that failure has been made."

Mr. G. Parameswaran Pillai:—

"My friend will admit that the revenue derived from this toll or fee will not be considerable at all, and considering that the hardship to the people will be disproportionately great, the Government can very well afford to forego it."

President:—"There is the moral effect."

Mr. G. Parameswaran Pillai.—

"In the case of steam vessels going at a very rapid rate, if the payment is not made, steps may be taken against the owners of such vessels."

President.—"How can you take steps? It is not refusing to pay."

Mr. G. Parameswaran Pillai:—

"Then it comes under evasion. I think that the term 'evasion' is sufficiently comprehensive."

President:—"You cannot catch the men. They may afterwards say that the vessel has not passed through the toll gate."

Mr. G. Parameswaran Pillai:—

"The balance of inconvenience ought to weigh with the Government. I think the word "failure" may be dropped."

The amendment was put to the vote and lost.

CLAUSE 46.

Mr. Subba Aiyar moved that the words "the owner and master of a vessel who shall for the purpose of deception use any fraudulent mark or have in any vessel counterfeit letters or figures" be substituted for the words "every person who shall for the purpose of deception fraudulently mark, counterfeit, or cause to counterfeit on a vessel any letters or figures" in lines 1 and 2. In doing so, he said :—

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"The Clause, as it stands, makes a person who fraudulently marks or counterfeits any letter or figure liable to be punished. This is a matter which is not possible for anybody to prove. The owner may have himself done it or caused his servants to do it. The object aimed at is to inflict a punishment for the use of counterfeit mark for the purpose of deception. The amendment follows the wording in the Hackney Carriage Regulation."

Seconded by Mr. Rajaraja Varma.

Mr. Raman Tampi:—

"I oppose the amendment. Mr. Subba Aiyar says that what is sought to be aimed at by the amendment is to punish the practice of deception by counterfeit marks. If that is so, the existing Clause may very well be retained."

President.—"He wants to make somebody definitely responsible."

Mr. Raman Tampi:—

"Suppose the master does the act without reference to the owner. According to this amendment, both of them will be liable. This is a violation of one of the cardinal principles of law. In respect of a prosecution for acts done by servants, they are alone responsible. If it comes to a question of damages, then the master may be liable. The infliction of penalty contemplated here may, I think, be confined to the actual perpetrator. The words 'owner or master' would serve the purpose in view".

Mr. Subba Aiyar:—

"The Bill contemplates vicarious punishment. The Bill makes owner and master equally liable in some cases. This is one of them. For instance, where a license is not taken, both are liable. If no information is given about structural alteration, both are liable. So also in the case of counterfeit marks, it is thought that both the owner and the master should be liable. The owner may get it done and say that the master did it. The master may say that the owner got it done."

President:—"Mr. Raman Tampi's objection is this. Suppose the owner is at Ernakulam and the vessel has left his possession and is with the master at Quilon, plying on water for a month or so there, and suppose in the interval, the servant or somebody who wants to spite the owner puts the marks. The owner may not know it. Then how can the owner be held liable? This will not be so in the case of a license."

Mr. Subba Aiyar:—

"If the Section is to be there, it should be capable of being enforced. Whether before or after the vessel begins to navigate, if the mark is altered, the owner should be liable. The owner ought to employ proper servants. Suppose, for instance, the vessel leaves Alleppey at a particular time, the master comes and takes charge of it just before the time for starting the boat and suppose the mark was altered before, and the Canal officer finds it out; he may say that he is not responsible and that the owner should account for it. So, if we go by exceptional circumstances, none could be punished."

Mr Raman Tampi:—

"My friend's difficulty appears to be the difficulty of proving who did the act in case of a prosecution. I think that that is not a matter for us to consider. The Magistrates may be expected to find out who did the act. Suppose, in a case, both the master and the owner say that they did not do it and suppose it is proved that neither of them did it. It is at best a matter of evidence and it is for the Courts to look into it and come to a proper conclusion. So, the difficulty in sifting the evidence ought not to stand in our way. On the other hand by putting the word 'or', the owner or master, whoever is liable, can be punished".

After some discussion, Mr. Subba Aiyar's amendment was accepted by the Council with the words "or the" being substituted for 'and' between "owner" and "master".

CLAUSE 47.

Mr. Subba Aiyar moved that the word "the" be substituted for 'every' in line 1 and that the word 'each' be inserted between 'shall' and 'be' in line 2.

Seconded by Mr. Narayanan Pandalay.

Carried.

CLAUSE 51.

Mr. Subba Aiyar, in moving that the words "and" and "refuse" be substituted for "or" and "refuses" respectively in line 1 and that the word "each" be inserted between the words "shall" and "be" in line 2, said:—

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"Under the Bill, there is a certificate of inspection and there should be a license. In the case of license, Clause 47 makes it punishable to retain a time-expired license, and the owner and the master are to be held liable for the offence. So also here, it is proposed to make the owner and the master liable for refusing to suffer the inspection of a vessel. Hence the amendment."

Seconded by Mr. K. Parameswaran Pillai.

Mr. Raman Tampi:—

"I oppose the amendment for the reasons already detailed. As the President was good enough to put it, the boat at the time when inspection is sought may be in wide waters and the owner may be several miles away. For an act of the master of the boat at the spot why should the owner be punished?"

President:—"This stands on a different footing. This is not a thing in which you have got to make out a dishonest intention or any such bad motive. If the owner employs a master who refuses to subject the vessel for inspection, then the owner and the master should be held liable."

Mr. Raman Tampi:—

"The owner is not refusing in this case. The owner would not be at the spot. If the master refuses without the knowledge of the owner, is the owner to be held liable?"

President:—"All that depends upon the circumstances of the case. If the owner satisfies the prescribed authority orthe officer who wants to move for prosecution, he may not be prosecuted. Supposing the owner says "you have got a person already responsible for the offence," the authority may not proceed against the owner."

Mr. Raman Tampi did not press his objection and the amendment was carried.

CLAUSE 54.

Mr. Subba Aiyar moved that the words "the" and "and" be substituted for "any" and "or" respectively in line 1 and that the word "each" be inserted between "shall" and "be" in line 2.

The amendment was accepted by the Council and it was carried.

CLAUSE 61.

Mr. G. Parameswaran Pillai, in moving that the Clause be deleted, said:—

"This Clause empowers the Court to order that any vessel or other thing used in the commission of an offence under the Bill be confiscated. The penal provisions under the Bill are sufficiently deterrent without this provision. This very same provision was once before introduced and that was rejected by this Council after the question was considered. Confiscation of a vessel is, in my opinion, too heavy a punishment for the offences under this Bill. Since, as I said, the penal Clauses already provide for sufficiently deterrent sentences being passed, I think that we need not go to the extent of investing the Courts with this power."

Seconded by Mr. John Nidiry.

Mr. Subba Aiyar:—

"The penalty that may have to be imposed upon a vessel will depend upon the nature of the vessel, the nature of the offence, the time when it is committed and the repetition of the offence. The power given under the Clause is only discretionary with the Magistrate. Any wrong exercise of discretion is liable to be revised by the higher authorities including the High Court. This power will, of course, be exercised only in exceptional cases. I therefore think that the Clause may be retained."

The amendment was put to the vote and lost.

CLAUSE 63.

Mr. G. Parameswaran Pillai:—

"I move that the words "prescribed authority" in line 2 be deleted and that the words "not below the status of a Dewan Peishkar" be inserted between "officer" and "empowered" in lines 2 and 3. The original Bill did not provide for such a provision. But the President of the Council suggested that, in the nature of the wide scope that the Regulation affords for very many prosecutions, it would be desirable to have a provision to the effect that no prosecution under the Regulation should be instituted without the sanction of an officer not below the rank of a Dewan Peishkar. Thus it will be seen that the original intention seems to have been to grant the power of according sanction or revising the sanction to a responsible officer. Hence the amendment."

Seconded by Mr. Raman Tampi.

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Mr. Subba Aiyar:—

"The prescribed authority will probably be the Chief Engineer. I do not think that any low-paid officer will be invested with such powers, as the prescribed authority will have to supervise Canal officers. I think it may be left to Government to declare who the prescribed authority is."

President:—"It is extremely unlikely that any officer below the rank of an Executive Engineer will be empowered to accord sanction in such cases."

The amendment was not pressed.

CLAUSE 72.

Mr. Subba Aiyar moved that the following be added as Clause 72, the subsequent Clauses being re-numbered :—

"72. Our Government may make rules—

(1) to provide for appeals and revisions from orders made under this Regulation by any person other than a Magistrate;

(2) prescribing the time within which such appeals ought to be preferred; and

(3) regulating the powers of the appellate authority and the procedure to be followed by such authority."

Mr. G. Parameswaran Pillai:—

"I have proposed a similar amendment. I second Mr. Subba Aiyar's amendment and withdraw mine."

Mr. Subba Aiyar's amendment was accepted by the Council and carried.

CLAUSE 75.

Mr. G. Parameswaran Pillai who had proposed the deletion of the Clause said that he wished to know the object of the provision.

Mr. Subba Aiyar :—

"The object of the provision is to empower the Canal officer to investigate an offence, to examine witnesses and also to compel the attendance of such witnesses. When a Canal officer inspects a vessel while it is navigating and finds that the vessel is overcrowded, it is necessary that he should immediately note down statements of witnesses who are present, as otherwise witnesses who are in the vessel will go away as soon as the vessel reaches its destination and as it may be impossible to know the names of witnesses and also secure their attendance. In such matters it is desirable that prompt action should be taken."

Mr. Parameswaran Pillai's amendment was withdrawn.

Mr. Subba Aiyar then proposed that the following new paragraph be inserted between the first and second paragraphs:—

"The powers of a Civil Court to compel the attendance of witnesses and the production of documents."

He said :—

"When an officer is empowered to examine witnesses there is no obligation imposed upon the witnesses to be present if summoned by the officer, or to produce the documents in their possession for evidence. Without such obligation, it may not be possible to secure the necessary evidence. Hence the amendment."

The amendment was accepted by the Council and it was carried.

CLAUSE 79.

Mr. Subba Aiyar moved that the words "and subject to such conditions as they may deem fit" be inserted between "Gazette" and "exempt" in lines 1 and 2 and that the following be inserted as sub-clause (2), the existing Clause being numbered as sub-clause (1):—

"(2) For breach of any of the conditions referred to in sub-section (1), it shall be competent to Our Government to withdraw such exemption."

He said :—

"It is proposed to exempt certain classes of vessels from the operation of some of the Sections of the proposed Regulation. If such vessels belong to Cochin or British Malabar and if they disobey the rules in force in Travancore, it should be open to Government to withdraw the exemption for breach of any of the conditions of exemption".

The amendment was accepted by the Council and it was carried.

Mr. Subba Aiyar moved that the following be added as Clauses 81 and 82:—

"Any officer appointed under this Regulation and specially empowered by our Government in this behalf, may, without orders from a Magistrate and without a warrant, arrest any person reasonably suspected of having committed an offence under this Regulation, if such person refuses to give his name and residence or gives a name or residence which there is reason to believe to be false or if there is reason to believe he will abscond.

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Every officer making an arrest under this Section shall, without unnecessary delay, take or send the person arrested to the nearest Police station and the officer in charge of the station shall then act according to law.

Any officer appointed under this Regulation and drawing a salary of not less than one hundred rupees, who or whose subordinate has arrested any person under the provisions of Section 81, may release such person on his executing a bond to appear if and when so required before the Magistrate having jurisdiction in the case or before the officer in charge of the nearest Police station".

He said :—

"I will explain the necessity for adding these two Clauses. If the owner of a vessel belongs to Cochin or British Malabar, it may not be possible to get at him to undergo a trial before a Magistrate here. The offences under the Bill are not ordinarily extraditable. With a view to secure the attendance of such persons at the trial, it may be necessary to arrest them and to release them on bail. Clause 81 empowers the officer to arrest the offender and Clause 82 empowers him to release the arrested person on bail."

The amendment was accepted by the Council and it was carried.

Mr. Subba Aiyar next moved that the following be added as Clause 83—

"83. No suit or other proceeding shall lie against any public servant for any act done or ordered to be done in good faith in pursuance of this Regulation."

He said :—

"When an officer is given the power to arrest, it is necessary that he should be protected if he exercises his powers *bona fide* and in pursuance of the Regulation. It is with that object that this Clause is proposed to be put in."

Seconded by Mr. Rangaswami Aiyangar.

Mr. Raman Tampi :—

"Is there any objection to make it clear that this applies to cases of arrest alone ?"

Mr. Subba Aiyar:—

"Whether in case of arrest or seizure, the officer must be protected."

Mr. G. Parameswaran Pillai in opposing the motion said :—

"Sir, for some time past, this Council has been party to several legislative measures restrictive of individual rights and liberties recognised by the ordinary law of the land. My friend, the Law Member, has always been particular in incorporating in every special law introduced by him one favourite provision that no suit or other proceeding shall lie against any public servant for any act done or ordered to be done in good faith in pursuance of such special laws. In some exceptional cases it may be desirable to protect public servants from criminal prosecution for acts done in good faith under a Regulation. But to extend the scope of such exemption even to the primary right of the citizen to obtain relief through Civil Courts for wrongs done to him by a public servant under colour of a Regulation would be mischievous and subversive of ordinary principles of justice. The law between man and man should alone apply even in the case of public servants.

Is there any necessity shown for such a provision being incorporated in a legislation of this nature? That the introduction of this provision was an after-thought is apparent from the fact that the original Bill as drafted by my friend and the Bill as revised by the Select Committee did not contain such a provision. Being a Government Bill I should think that it would have been fairer if my friend had subjected this provision to the criticism of the Council at the earlier stages of the Bill.

Even the Madras Act on which this Bill has been modelled does not contain a similar provision. It would be interesting to learn that when the existing Regulation was under discussion in 1083, a non-official Member moved for the addition of a Section expressly saving the right of individuals prejudicially affected by the wrongful acts or omissions of public servants to seek relief for damages through Civil Courts. The then President accepted the principle of the motion but said that since there was no express provision prohibiting Civil suits in such cases a relief available at common law need not be expressly provided for and the motion was then withdrawn. But now according to my friend an express provision prohibiting Civil suits is rendered necessary in certain circumstances. He has not explained whether the conditions that existed in 1083 have altered since then to induce us to make special provision in this respect. We have got a right to call upon my friend to show how many cases have been filed against public servants who acted in good faith under this Regulation. Has there been any instance of a vexatious suit because of the saving of the right to sue? It may be said that the provision relates only to acts done or ordered to be done in good faith in pursuance of this Regulation. It is then apprehended that unless there is a provision to this effect the Civil Courts may treat such acts as wrongful or unlawful and decree damages. If the Civil Courts can be relied on to properly administer the law, Government need not seek for any special protection for their servants under the special

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legislation. If not, would it not be safer to expressly save the right of the subject to sue for damages consequent upon the wrongful acts or omission of public servants? Again, the term "good faith" is itself vague. That is merely a question of fact. Without going to a Civil Court how can this be decided? If, as a matter of fact, it is found that the damages, if any, were caused in the lawful discharge of a duty imposed by law, the Court will not award damages at all. If my friend does not object to the principle of the amendment originally referred to by me, and if, as he contends, there is not much difference between that provision and his own motion, I would request him to adopt that amendment which is specific and clear. That amendment runs as follows:—

"Nothing in this Regulation shall affect the right of any person to sue for and obtain relief in a Civil Court respecting any damage or loss suffered or sustained by him in consequence of wrongful acts done or omissions made by Our Government or by any other person."

If my friend is not willing to accept at least this, I would strongly oppose his motion.

My friend may be aware of the stout opposition that emanated from this side of the House when a similar provision was sought to be introduced in the Forest Regulation. Each time my friend introduces this provision he says the same has been introduced in earlier measures. He forgets that the same was passed only because of the preponderance in number of his own official colleagues. At any rate, after the loud protest from us in regard to a similar provision in the Forest Regulation I hoped that the Law Member would not persevere in his attempt at that direction any more. I can only say I am sorry I was mistaken. However, I would request this Council to reject the motion of my friend this time."

Mr. Raman Tampi:—

"I also beg to oppose the amendment. When the Forest Regulation Amendment Bill was introduced in this Council, a similar provision was found incorporated in it. I may invite the attention of the Council to what Mr. Krishna Aiyangar said then. He said that he could not exactly understand why Government should avail themselves of such extraordinary powers for the protection of public servants and that it might at once evince a kind of distrust on the part of Government in their judiciary and magistrates. I think that those observations apply even now. If the officers to whom powers are to be entrusted under the proposed law are expected to act properly, we might as well expect the judiciary and magistrates also to do so. If it is found that vexatious criminal proceedings are started, the necessary safeguard is available at common law and a provision of this kind is unnecessary and is likely to lead to misunderstandings. Almost every Regulation has a Section of this kind appended to it. This rather looks unsavoury in some instances, and I should think that it is absolutely uncalled for for the reasons already given by Mr. Krishna Aiyangar. I may also say that, if the scope of the Clause is to be specially meant for the protection of superior officers to whom certain powers are entrusted under the Bill, there is at least the guarantee that they will be officers getting a salary of Rs. 100 or more who may use their discretion properly, and we can willingly trust them. But, in respect of certain provisions of the Bill, the minor subordinates of the Department will be entrusted with the work, and I should think that these subordinates cannot be entrusted with the same amount of discretion as in the case of the superior officers".

Mr. John Nidiry:—

"I also oppose the amendment. I am of opinion that this provision which deprives the subject of his common law right should not be so lightly inserted. There is sufficient protection for the Canal officers in our judiciary, and there cannot be any fear on the part of the Government, that these officers will not get justice at the hands of the magistrates. So, I am against the provision being put into the Bill".

Mr. Subba Aiyar:—

"There are two conditions provided by the Clause. The act must have been *bona-fide* and should have been done in pursuance of the Regulation. It is only in such cases that the public servant will be exempted from liability. If the act done is illegal, the Section may not protect him. I do not know what my friends mean by common law in Travancore. I do not think that there is any such law. In the absence of a statutory provision, the law in force in British India or in England is sometimes adopted. The question as to the necessity for such a provision was discussed at great length when the Forest Regulation Amendment Bill was considered. I cannot see, if on the grounds mentioned in the Section the Court will absolve the man, what harm there could be in enunciating it in the Bill itself? On the other hand, if it be omitted after this discussion, the omission is likelyto be misconstrued, especially when a similar provision is found in many other enactments."

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Mr. G. Parameswaran Pillai:—

"This provision was discussed in this Council when the Forest Regulation Amendment Bill was considered. All the non-official Members protested against its inclusion, and it was only with the support of his official colleagues that my friend was able to get through the Clause then. This must have been the case with all the previous enactments. Therefore, to say that the provision has been incorporated in other enactments and that its absence would be interpreted in a different way cannot be considered as an argument for its retention in this Bill. As for the other ground, *viz.*, whether the object is not gained by the words "good faith", my submission is this. Does my friend say that no suit shall lie in cases where damages accrue on account of the wrongful acts or wrongful omission on the part of public servants? I suppose a suit will lie. If my friend does not concede even this, then I shall have nothing to say. If he concedes this right, then the people sustaining damages resulting from such wrongful acts or wrongful omission must be expressly authorised to go to Civil Courts to seek redress."

President:—"That has not been prohibited."

Mr. G. Parameswaran Pillai:—

"My friend himself would admit that there is a difference between the two Clauses under discussion, *viz.*, "no suit shall lie for acts done in good faith" and "nothing shall prohibit a person from suing for damages on account of wrongful acts or omissions." The term "good faith" in its restricted sense may apply only to restricted cases. Even in cases of wrongful acts or omissions resulting in damages, it may be said that they have been done in good faith and in pursuance of the Regulation. The question whether the act was done in good faith or not is one which may be left to the Court for decision. Even in respect of an act done in good faith, it is doubtful whether the Sirkar will be liable. So far as wrongful acts are concerned, my friend will certainly agree that the Sirkar will not be liable for acts not done in good faith."

Mr. Subba Aiyar:—

"If the act is not done in good faith and in pursuance of the Regulation, the public servant will be liable."

Mr. Raman Tampi:—

"As it is, it is not difficult to surmise instances where it may be thought that no complaints can be instituted. The meaning of the Clause may therefore be made clear by the proceedings of this Council."

Mr. Subba Aiyar:—

"A magistrate receiving the complaint must examine the complainant to see if there are sufficient grounds for issuing a notice to the other side. If he is satisfied, the public servant must come there. The magistrate will have no basis to reject the complaint without hearing the other side. If this is not done, the appellate authority is sure to interfere."

The amendment was put to the vote and it was carried.

Mr. Subba Aiyar:—

"I beg to move the following amendments of which I have not given notice. The amendments are more or less verbal."

(1) CLAUSE 25.

Insert "under this Regulation" between "has" and "a" in line 2 and "and a license under Regulation III of 1082" at the end.

(2) CLAUSE 28.

Delete "in duplicate" in line 4.

(3) CLAUSE 30.

Delete "one of the duplicates of" in line 4 and insert "and the license" after the word "certificate" in the same line and substitute "they" for "it" in line 6.

(4) CLAUSE 53.

Insert "or the license" between "Regulation" and "is" in line 1.

The Council accepted the ammendments and they were carried.

The consideration of the Bill over, Mr. Subba Aiyar moved that the Bill be read again on a future day of which notice will be given.

Seconded by Mr. Rangaswami Aiyangar.

Carried.

The Council adjourned at 2-30 P. M.

K. NARAYANAN PANDALAY,
Secretary to the Legislative Council.

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